

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RICHARD OLIVER,

Petitioner,

MICHAEL BARONE, et al.,

Respondent.

Civil Action No. 08-11 Erie

**MEMORANDUM ORDER**

This habeas action was received by the Clerk of Court on January 10, 2008 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 17], filed on December 2, 2010, recommended that Petitioner's Petition be dismissed for lack of jurisdiction and that a certificate of appealability be denied. The parties were allowed fourteen (14) days from the date of service to file objections. Service was made on Petitioner by certified mail and on Respondents. Petitioner filed a "Notice of Appeal" [Doc. No. 18] on December 9, 2010, which the Court has construed as objections to the report and recommendation. After de novo review of the petition and documents in the case, together with the Report and Recommendation and objections thereto, the following order is entered:

AND NOW, this 13<sup>th</sup> day of December, 2010;

IT IS HEREBY ORDERED that the Petitioner's Petition for Writ of Habeas Corpus is DISMISSED for lack of jurisdiction and a certificate of appealability is DENIED.

The Report and Recommendation [Doc. No. 17] of Magistrate Judge Baxter, filed on December 2, 2010 is adopted as the opinion of the Court.

s/ Sean J. McLaughlin  
United States District Judge

cm: All parties of record  
Susan Paradise Baxter, U.S. Magistrate Judge